

Senate Engrossed

State of Arizona
Senate
Forty-seventh Legislature
First Regular Session
2005

CHAPTER 31

SENATE BILL 1070

AN ACT

AMENDING SECTIONS 3-449, 3-450, 3-491, 3-492 AND 3-527.01, ARIZONA REVISED
STATUTES; RELATING TO CITRUS, FRUITS AND VEGETABLES.

(TEXT OF BILL BEGINS ON NEXT PAGE)



1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 3-449, Arizona Revised Statutes, is amended to
3 read:

4 3-449. Annual licensing; fee; application

5 A. No person shall transact business as a citrus fruit dealer, packer
6 or shipper without first obtaining a license as provided in this
7 article. The license expires on August 1 of each year and is renewable
8 annually. The license fee shall be determined according to the annual
9 gross sales based on the dealer's or shipper's previous fiscal year as
10 follows:

11 1. If the annual gross sales are five hundred thousand dollars or
12 more, the annual fee is four hundred fifty dollars.

13 2. If the annual gross sales are between two hundred thousand dollars
14 and five hundred thousand dollars, the annual fee is three hundred dollars.

15 3. If the annual gross sales are two hundred thousand dollars or less,
16 the annual fee is one hundred fifty dollars.

17 4. If the person was not in business the previous fiscal year, the
18 annual fee is one hundred fifty dollars.

19 B. The application for a packer license shall be filed with the
20 supervisor and be accompanied by an annual license fee of one hundred fifty
21 dollars.

22 C. If a person engages in business in more than one category as a
23 dealer, shipper or packer, the license designation shall be based on the
24 category in which most of the licensee's business is conducted.

25 D. The license fees collected by the supervisor shall be paid into the
26 citrus, fruit and vegetable revolving fund.

27 E. The application for a dealer, shipper or packer license shall
28 contain the following information:

29 1. The full name of the person applying for the license.

30 2. Whether the applicant is an individual, partnership, firm,
31 corporation, association, trust or cooperative association and the full name
32 of each member of the partnership or firm, the full name of each officer and
33 director of the association or corporation or the full name of each trustee.

34 3. The principal business address of the applicant in this state and
35 elsewhere and the address where the applicant conducts the described
36 business.

37 4. The name of the statutory agent in this state for service of legal
38 notice.

39 5. The category of license for which the applicant is applying.

40 6. ~~An affidavit~~ A STATEMENT of the facts, SIGNED UNDER PENALTY OF
41 PERJURY, entitling the applicant to a license under the applicable category
42 and stating whether the applicant has ever had any license to handle citrus,
43 fruit or vegetables in any state denied, suspended or revoked.

1 7. If the applicant acts as a commission merchant, a schedule of
2 commissions and charges for services, which may not be altered during the
3 term of the license except by written agreement between the parties involved.

4 F. The supervisor shall issue to the applicant a license to conduct
5 the business described for a period of one year unless it is revoked for
6 cause.

7 G. An applicant who tenders a renewal application for a license that
8 is received by the supervisor after August 15 shall pay a penalty of
9 twenty-five dollars. An applicant who tenders a renewal application for a
10 license that is received after September 1 shall pay a penalty of fifty
11 dollars. All penalties shall be deposited in the citrus, fruit and vegetable
12 revolving fund.

13 Sec. 2. Section 3-450, Arizona Revised Statutes, is amended to read:

14 3-450. Exemption from citrus fruit standardization; definitions

15 A. The supervisor shall exempt any citrus fruit commodity from all
16 rules established pursuant to section 3-445, subsection B, paragraphs 1
17 through 5 and shall exempt the collection of assessments for the commodity
18 subject to this article if the exemption is supported by at least fifty-one
19 per cent of the producers who produce at least fifty-one per cent of the
20 total quantity of that particular citrus fruit commodity that was marketed
21 during the preceding year and all of the other requirements of this section
22 have been met. For THE purposes of this ~~paragraph~~ SUBSECTION, "quantity"
23 means the percentage of ownership interest a producer has in the marketed
24 cartons.

25 B. To initiate the exemption process, a producer or shipper shall
26 present to the supervisor a petition signed by producers, under penalty of
27 perjury, who represent AT LEAST one-third of the cartons of the commodity
28 produced in the previous year. The petition shall be submitted on a form
29 prescribed and furnished by the supervisor. On receiving the petition, the
30 supervisor shall negotiate with the petitioner a fee for the estimated costs
31 of the notification, balloting and certification process under this
32 section. The petitioner is responsible for all costs associated with this
33 process and shall pay to the supervisor at least one-half of the fee before
34 proceeding with the petition process.

35 C. Within ten days after receiving the fee payment under subsection B
36 of this section, the supervisor shall send a notice and a ballot to each
37 shipper of the commodity by certified mail, return receipt requested. The
38 notice shall include a statement that the shipper shall notify each producer
39 the shipper represents of the exemption petition and of the producer's right
40 to support or oppose the exemption.

41 D. Within sixty days after receiving the notice from the supervisor,
42 each shipper shall return the ballot to the supervisor, filed under penalty
43 of perjury, containing the following information:

44 1. The name of each producer of the particular commodity that the
45 shipper deals with.

2. The total number of cartons produced in the preceding year by each producer based on the percentage of ownership.

3. The vote of each producer based on the percentage of ownership of cartons.

E. If a shipper fails to return the ballot as prescribed by subsection D of this section, the supervisor may audit the shipper to ensure compliance with section 3-449.03.

F. Within ninety days after receiving the ballots issued under this section, the supervisor shall review the ballots and determine the results. On payment of the full amount of the costs of the petition process as determined under subsection B of this section, the supervisor shall certify and issue the results of the ballots. If the supervisor certifies that the ballots meet the requirements of this section, the supervisor shall provide public notice of the date the exemption becomes effective, which shall be within ninety days after the supervisor certifies and issues the results of the balloting.

G. Information provided by shippers to the supervisor for purposes of this section is confidential and is not a public record, and the supervisor shall not disclose the information for any purpose except for the purpose of an appeal under subsection H of this section.

H. The petitioner and any producer or shipper of the commodity for which exemption is being sought has the right to appeal to the director on any of the following issues:

1. The validity of the petition submitted under subsection B of this section.

2. The notice requirements of this section.

3. The sufficiency of the submitted ballots.

4. The costs of the petition process.

I. All monies collected by the supervisor pursuant to this section shall be deposited in the citrus, fruit and vegetable revolving fund established by section 3-447.

J. The procedures prescribed by this section also apply for producers and shippers to rescind an exemption that was previously granted under this section. The rescission becomes effective on July 1 of a year as determined by the supervisor. No rescission may take effect until the exemption has been in effect for at least two years.

K. For THE purposes of this section:

1. "Producer" means a single legal entity that has a percentage ownership interest in the marketed commodity.

2. "Year" means ~~the standardization crop year from September 1 through August 31~~ JULY 1 THROUGH JUNE 30.

1 Sec. 3. Section 3-491, Arizona Revised Statutes, is amended to read:
2 3-491. Exemption from fruit or vegetable standardization;

3 definitions

4 A. The supervisor shall exempt any fruit or vegetable commodity from
5 all rules established pursuant to section 3-487, subsection B, paragraphs 1
6 through 5 and shall exempt the collection of assessments for the commodity
7 subject to this article if the exemption is supported by at least fifty-one
8 per cent of the producers who produce at least fifty-one per cent of the
9 total quantity of that particular fruit or vegetable commodity that was
10 marketed during the preceding year and all of the other requirements of this
11 section have been met. For THE purposes of this paragraph SUBSECTION,
12 "quantity" means the percentage of ownership interest a producer has in the
13 marketed cartons.

14 B. To initiate the exemption process, a producer or shipper shall
15 present to the supervisor a petition signed by producers, under penalty of
16 perjury, who represent AT LEAST one-third of the cartons of the commodity
17 produced in the previous year. The petition shall be submitted on a form
18 prescribed and furnished by the supervisor. On receiving the petition, the
19 supervisor shall negotiate with the petitioner a fee for the estimated costs
20 of the notification, balloting and certification process under this section.
21 The petitioner is responsible for all costs associated with this process and
22 shall pay to the supervisor at least one-half of the fee before proceeding
23 with the petition process.

24 C. Within ten days after receiving the fee payment under subsection B
25 of this section, the supervisor shall send a notice and a ballot to each
26 shipper of the commodity by certified mail, return receipt requested. The
27 notice shall include a statement that the shipper shall notify each producer
28 the shipper represents of the exemption petition and of the producer's right
29 to support or oppose the exemption.

30 D. Within sixty days after receiving the notice from the supervisor,
31 each shipper shall return the ballot to the supervisor, filed under penalty
32 of perjury, containing the following information:

33 1. The name of each producer of the particular commodity that the
34 shipper deals with.

35 2. The total number of cartons produced in the preceding year by each
36 producer based on the percentage of ownership.

37 3. The vote of each producer based on the percentage of ownership of
38 cartons.

39 E. If a shipper fails to return the ballot as prescribed by subsection
40 D of this section, the supervisor may audit the shipper to ensure compliance
41 with this article.

42 F. Within ninety days after receiving the ballots issued under this
43 section, the supervisor shall review the ballots and determine the results.
44 On payment of the full amount of the costs of the petition process as
45 determined under subsection B of this section, the supervisor shall certify

1 and issue the results of the ballots. If the supervisor certifies that the
2 ballots meet the requirements of this section, the supervisor shall provide
3 public notice of the date the exemption becomes effective, which shall be
4 within ninety days after the supervisor certifies and issues the results of
5 the balloting.

6 G. Information provided by shippers to the supervisor for purposes of
7 this section is confidential and is not a public record, and the supervisor
8 shall not disclose the information for any purpose except for the purpose of
9 an appeal under subsection H of this section.

10 H. The petitioner and any producer or shipper of the commodity for
11 which exemption is being sought has the right to appeal to the director on
12 any of the following issues:

13 1. The validity of the petition submitted under subsection B of this
14 section.

15 2. The notice requirements of this section.

16 3. The sufficiency of the submitted ballots.

17 4. The costs of the petition process.

18 1. All monies collected by the supervisor pursuant to this section
19 shall be deposited in the citrus, fruit and vegetable revolving fund
20 established by section 3-447.

21 J. The procedures prescribed by this section also apply for producers
22 and shippers to rescind an exemption that was previously granted under this
23 section. The rescission becomes effective on July 1 of a year as determined
24 by the supervisor. No rescission may take effect until the exemption has
25 been in effect for at least two years.

26 K. For THE purposes of this section:

27 1. "Producer" means a single legal entity that has a percentage
28 ownership interest in the marketed commodity.

29 2. "Year" means ~~the standardization crop year from September 1 through~~
30 ~~August 31~~ JULY 1 THROUGH JUNE 30.

31 Sec. 4. Section 3-492, Arizona Revised Statutes, is amended to read:

32 3-492. Licensing dealers, shippers and packers; application;
33 fee

34 A. No person shall act as a dealer or shipper without first obtaining
35 a license as provided in this article. Application for the license shall be
36 filed with the supervisor and accompanied by a license fee determined
37 according to the annual gross sales based on the dealer's or shipper's
38 previous fiscal year as follows:

39 1. If the annual gross sales are five hundred thousand dollars or
40 more, the annual fee is five hundred dollars.

41 2. If the annual gross sales are between two hundred thousand dollars
42 and five hundred thousand dollars, the annual fee is three hundred fifty
43 dollars.

44 3. If the annual gross sales are two hundred thousand dollars or less,
45 the annual fee is two hundred dollars.

1 4. If the person was not in business the previous fiscal year, the
2 annual fee is two hundred dollars.

3 B. A person may not act as a packer without first obtaining a license
4 as provided in this article. The application for a packer license shall be
5 filed with the supervisor and accompanied by an annual license fee of two
6 hundred dollars.

7 C. If a person engages in business in more than one category as a
8 dealer, shipper or packer, the license designation shall be based on the
9 category in which most of the licensee's business is conducted.

10 D. The monies received as license fees under this section shall be
11 paid into the citrus, fruit and vegetable revolving fund. The license shall
12 expire on September 1 of each year and is renewable annually.

13 E. The application for a dealer, shipper or packer license shall
14 contain the following information:

15 1. The full name of the person applying for the license.

16 2. Whether the applicant is an individual, partnership, firm,
17 corporation, association, trust or cooperative association and the full name
18 of each member of the partnership or firm, the full name of each officer and
19 director of the association or corporation or the full name of each trustee.

20 3. The principal business address of the applicant in this state and
21 elsewhere and the address where the applicant conducts the described
22 business.

23 4. The name of the statutory agent in this state for service of legal
24 notice.

25 5. The category of license for which the applicant is applying.

26 6. ~~An affidavit~~ A STATEMENT of the facts, SIGNED UNDER PENALTY OF
27 PERJURY, entitling the applicant to a license under the applicable category
28 and stating whether the applicant has ever had any license to handle citrus,
29 fruit or vegetables in any state denied, suspended or revoked.

30 7. If the applicant acts as a commission merchant, a schedule of
31 commissions and charges for services, which may not be altered during the
32 term of the license except by written agreement between the parties involved.

33 F. The supervisor shall issue to the applicant a license to conduct
34 the business described for a period of one year unless it is revoked for
35 cause.

36 G. An applicant who tenders a renewal application for a license that
37 is received by the supervisor after September 15 shall pay a penalty of
38 twenty-five dollars. An applicant who tenders a renewal application for a
39 license that is received after October 1 shall pay a penalty of fifty
40 dollars. All penalties shall be deposited in the citrus, fruit and vegetable
41 revolving fund.

1 Sec. 5. Section 3-527.01, Arizona Revised Statutes, is amended to
2 read:

3 3-527.01. Citrus, fruit and vegetable advisory council;
4 membership; terms; vacancy; compensation

5 A. The citrus, fruit and vegetable advisory council is established
6 consisting of members appointed by the governor as follows:

7 1. Two citrus producers, one from Yuma or La Paz county and one from
8 Maricopa, Pinal or Pima county.

9 2. One apple, GRAPE OR TREE FRUIT producer.

10 ~~3. One grape producer.~~

11 ~~4.~~ 3. One iceberg lettuce producer from Yuma county.

12 ~~5.~~ 4. Three fruit or vegetable producers, excluding producers
13 exclusively engaged in growing citrus, apples, ~~or~~ grapes OR TREE FRUIT,
14 including one fruit or vegetable producer from Maricopa, Pinal or Pima county
15 and one from Yuma or La Paz county.

16 B. The governor may consult with any recognized citrus, fruit and
17 vegetable growers and shipper organizations in this state in making
18 appointments to the council.

19 C. The term of office of each council member is three years and shall
20 begin on January 1 and end on December 31 of the appropriate year. On the
21 expiration of a term of a member or in the event of a vacancy, a successor
22 shall be appointed by the governor.

23 D. The office of any member is deemed vacant and the governor shall
24 appoint a person to fill the remainder of the term under any of the following
25 circumstances:

26 1. The member is no longer a producer.

27 2. The member is unable to perform ~~his~~ THE duties ON THE COUNCIL.

28 3. The member has become a resident of another state.

29 4. THE ABSENCE OF THE MEMBER FROM FOUR CONSECUTIVE COUNCIL MEETINGS IF
30 THE ABSENCES HAVE NOT BEEN EXCUSED BY THE COUNCIL.

31 ~~E. In the case of a citrus, fruit or vegetable commodity that is~~
32 ~~exempt from standardization pursuant to section 3-450 or 3-491, the governor~~
33 ~~shall not appoint a replacement producer of that commodity if the affected~~
34 ~~commodity is apples, grapes or iceberg lettuce.~~

35 ~~F.~~ E. Members of the council are not eligible to receive compensation
36 but are eligible for reimbursement of expenses pursuant to title 38, chapter
37 4, article 2.

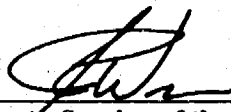
APPROVED BY THE GOVERNOR APRIL 5, 2005.


FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 5, 2005.

Passed the House March 29, 20 05,

by the following vote: 44 Ayes,

13 Nays, 3 Not Voting

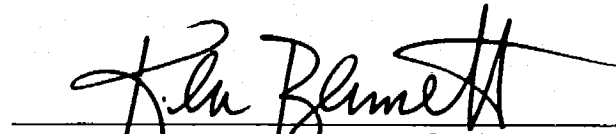

Speaker of the House


Asst. Chief Clerk of the House

Passed the Senate February 3, 20 05,

by the following vote: 24 Ayes,

0 Nays, 6 Not Voting


President of the Senate

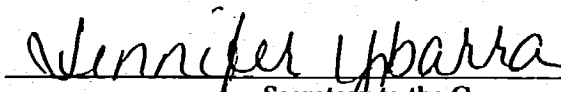

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

30th day of March, 20 05

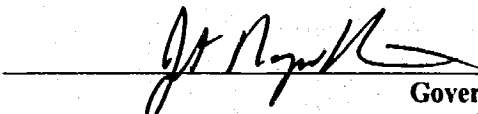
at 1:41 o'clock P. M.


Secretary to the Governor

Approved this 5 day of

April, 20 05,

at 8:20 o'clock A. M.

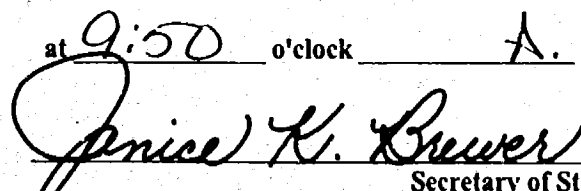

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 5 day of April, 20 05,

at 9:50 o'clock A. M.


Secretary of State

S.B. 1070